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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re BRANDON S., a Person Coming Under the Juvenile Court Law.
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B154446

THE PEOPLE,

(Super. Ct. No. FJ29073)

Plaintiff and Respondent,

v.

BRANDON S.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County,
Stephanie Davis, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.)
Affirmed.

Lisa M. Bassis, under appointment by the Court of Appeal, for Defendant
and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant
Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General,
Susan D. Martynec and Susan Lee Frierson, Deputy Attorneys General, for
Plaintiff and Respondent.

Appellant Brandon S. appeals from a judgment declaring him a ward of the court pursuant to Welfare and Institutions Code section 602 and placing him in the camp-community placement program. He contends the judgment must be reversed for lack of substantial evidentiary support. For reasons explained in this opinion, we affirm the judgment.

FACTUAL SUMMARY

Appellant was charged with second degree robbery while personally armed with a BB gun. At the commencement of the adjudication hearing, the People moved to amend the petition to add a second count alleging first degree robbery of a transit officer.

The evidence, briefly stated in the light most favorable to the judgment, proved that on August 17, 2001, at approximately 11:00 p.m., appellant and a companion approached a yellow taxi driven by Mr. Harout Deratamian. Appellant said, "We need a ride." Mr. Deratamian replied that he was not working because his shift was over. Appellant pulled a gun from under his shirt, held it to Mr. Deratamian's head and said, "Motherfucker, give me your money now." Appellant repeated the order, adding a threat to kill the victim. Mr. Deratamian gave appellant his glasses, keys, a pack of cigarettes and some change, but denied having any other money. Appellant said he knew the man had money and threatened, again, to kill him. Mr. Deratamian took \$20 from his pants pocket and gave it to appellant.

When appellant's attention was distracted by an approaching car, Mr. Deratamian kicked his door open, causing appellant to fall down. Appellant got up and ran away. Mr. Deratamian pursued in the cab, shouting "He's a thief, He's a thief. He has a gun. He has a gun." Police who joined in the pursuit

eventually detained appellant. The gun used in the crime was found under a parked truck. It was a BB gun.

DISCUSSION

I

Penal Code section 212.5, which defines the degrees of robbery, provides, in relevant part that robbery of “any person *who is performing his or her duties* as an operator of *any . . . taxicab*” is robbery of the first degree. (Pen. Code, § 212.5, subd. (a), emphasis added.) Appellant contends the evidence was insufficient to prove first degree robbery under this definition because there was no evidence that Mr. Deratamian was a legitimate driver of a legitimate cab or that he was engaged the performance of his duties at the time of the crime.

Undisputed evidence proved that Mr. Deratamian was driving a yellow taxicab at the time of the crime. His special license to drive the cab was posted in the vehicle. After working seven hours of a twelve hour shift, he “went home early” because it was a slow day. He was about to park the taxicab when appellant and his companion approached. The only reasonable conclusion to be drawn from this evidence is that Mr. Deratamian was a person performing his duties as the operator of a taxicab within the meaning of Penal Code section 212.5.

Appellant’s contention to the contrary rests on the premise that the victim’s testimony, unsupported by documentation such as Mr. Deratamian’s license or documentation showing the taxicab met the strict requirements of the Public Utilities Code and city ordinances, was insufficient to prove the essential facts. But appellant cites no authority supporting his assertion that the testimony of a licensed taxicab driver is insufficient or incompetent to prove the fact of licensure in a criminal trial. Nor does he mention the fact that the evidence came in

without objection. Having failed to object or otherwise raise the issue of the competence of the evidence in the trial court, he has waived this argument on appeal. (See *People v. Carpenter* (1999) 21 Cal.4th 106, 160.)

There was, as appellant points out, no proof that the taxicab, itself, was licensed to do business at the time and place of the crime. Again, appellant has cited no authority requiring the prosecution to prove that fact as an element of the crime. Appellant argues the burden is implicit in the statutory language of section 212.5. He maintains that under that section, as in crimes committed against peace officers, the lawfulness of the victim's conduct must be part of the corpus delicti of the offense. He reasons that the Legislature did not intend to declare robbery of "gypsy cabs or persons who occasionally elect to drive people for hire," to be first degree robbery. We find no such restriction in the broad language of the statute. It declares the robbery of any person operating "*any . . . taxicab*" to be first degree robbery. Appellant does not dispute the fact that the victim was driving a taxicab. And appellant's statements, asking for a ride, demanding money, and saying that he knew the victim had money, proved that appellant robbed the victim *because* he was driving a taxicab. Appellant thus committed a robbery which the Legislature sought to deter with more severe punishment. (See *People v. McDade* (1991) 230 Cal.App.3d 118, 121.)

Viewing the evidence in the light most favorable to the juvenile court's findings, as we must (*In re Leland D.* (1990) 223 Cal.App.3d 251, 257), we conclude substantial evidence supports the juvenile court's finding that appellant committed first degree robbery within the meaning of Penal Code section 212.5.

DISPOSITION

For the foregoing reasons, the judgment is affirmed.

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EPSTEIN, J.

We concur:

VOGEL (C.S.), P.J.

CURRY, J.